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[Document D.]

BY THE SENATE,
January 13, 1854.

Read and ordered to be printed.

COMMUNICATION

FROM THE

TREASURY DEPARTMENT,

IN REPLY

TO AN ORDER OF THE SENATE OF THE
7TH JANUARY.

COMMUNICATION.

TREASURY DEPARTMENT.

COMPTROLLER'S OFFICE,
Annapolis, January 12th, 1854.

To the Honorable WM. LINGAN GAITHER, President.

Sir :—In obedience to the order of the Senate, of the 7th inst., requesting me “to inform the Senate whether any payments have been made on account of the balances set forth in statements G and I, as due at the date of the Comptroller’s Report, and by whom,” I have the honor to submit the accompanying Statements, Nos. 1 & 2, showing the payments upon those accounts.

I am very respectfully,

Your obedient servant,

WM. PINKNEY WHYTE,
Comptroller.

CORRESPONDENCE.

EXECUTIVE DEPARTMENT,
January 12th, 1854.

To the Senate.

Gentlemen:—Your order of date 7th instant, requesting a copy of the Governor's correspondence with the clerk of the Circuit Court of Washington county, in relation to Road Supervisors, has been received, and I herewith send a copy of the correspondence asked for.

T. WATKINS LIGON.

CLERK'S OFFICE,
Hagerstown, November 9th, 1853.

His Excellency,

The Governor of Maryland.

Sir:—In transmitting to you to-day the election returns for this County, I have had great difficulty in deciding as to the form of the returns, and should they be defective I will cheerfully put them in such form as your Excellency may suggest. The return judges themselves were at a loss what to do, after even consulting counsel. I have also included the returns of Constables and Supervisors of Roads under the 29th sect. of the 4th article of the Constitution, as that is very comprehensive, although I do not see myself the necessity of so doing, but thought it the safest course.

I have the honor to subscribe myself,

Your obedient servant,

(Signed)

ISAAC NESBITT.

STATE OF MARYLAND,
Executive Department,
 November 11th, 1853.

To Isaac Nesbitt, Esq.

Clerk of the Circuit Court for Washington county.

Sir:—By direction of the Governor, I have the honor to acknowledge the receipt of your letter of the 9th inst., and to reply as follows.

The Governor had already considered the question of issuing Commissions to Constables and Road Supervisors. The 29th section of Article IV. of the Constitution is, as you properly remark, "very comprehensive," and would seem to embrace the class of officers referred to as amongst those to be commissioned by the Governor. But you will perceive by reference to the Act of Assembly of 1853, chapter 300, sec. 2, that the returns of election of Road Supervisors are to be made to the County Commissioners, who are instructed to issue commissions, setting forth special matters in that section provided for.

It is apparent to the Governor, that this legislative construction of section 29, of Article IV., does not seem to be warranted by the terms of that section; and the Governor accordingly is led to believe that the Legislature considered that construction, warranted by section 9, of Article VII., which says that "The General Assembly shall provide by law for the election of Road Supervisors, in the several counties," &c. The Legislature must have supposed that the authority thereby vested in it to provide for the "election," &c., included the power to designate the manner of the returns and the mode of issuing the commissions. Although the Governor considers this a forced construction, inasmuch as the county commissioners can issue no "commissions," properly speaking, (in the sense in which that term is used in the 29th section of Article IV.,) not being able to affix the seal of the State, nevertheless the Governor does not deem it necessary to take issue with the Legislature upon that point.

In regard to Constables, the Legislature has given no such construction, as you will see by reference to the Act of 1852, chapter 274.

The Governor will therefore issue commissions to constables as to justices of the peace.

The Governor has deferred to the judgment of the Legislature in regard to the former question in view of the second section of Article X., which by conferring upon the Legislature the "power to pass all such laws as may be necessary and proper, for carrying into execution the powers vested by this Constitution," &c., seems to have submitted such question of construction exclusively to its decision, excepting where such construction would interfere with the right or duties of any other co-ordinate branch of the government, in which case it would be disregarded by the Executive.

I have the honor to be,

Verd respectfully,

Your obedient servant,

(Signed)

JOHN RANDOLPH QUINN,
 Secretary of State.

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